

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

**Proposing rule making related to the personal responsibility education program
and the Title V state sexual risk avoidance education grant program and
providing an opportunity for public comment**

The Public Health Department hereby proposes to adopt new Chapter 78, “Personal Responsibility Education Program and Title V State Sexual Risk Avoidance Education Grant Program Funding and Restrictions,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in 2019 Iowa Acts, House File 766, section 99.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2019 Iowa Acts, House File 766, section 99.

Purpose and Summary

The purpose of proposed Chapter 78 is to adopt the requirements of 2019 Iowa Acts, House File 766, section 99, to exclude, as an eligible applicant, any entity that performs abortions, promotes abortions, maintains or operates a facility where abortions are performed or promoted, contracts or subcontracts with an entity that performs or promotes abortions, becomes or continues to be an affiliate of any entity that performs or promotes abortions, or regularly makes referrals to an entity that provides or promotes abortions or maintains or operates a facility where abortions are performed. However, this prohibition shall not be interpreted to include a nonpublic entity that is a distinct location of a nonprofit health care delivery system, if the distinct location provides programming through the Personal Responsibility Education Program (PREP) or the Title V State Sexual Risk Avoidance Education Grant Program (SRAE) but does not perform abortions or maintain or operate as a facility where abortions are performed.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department’s waiver provisions contained in 641—Chapter 178.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 15, 2022. Comments should be directed to:

Marcus Johnson-Miller
Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: marcus.johnson-miller@idph.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Adopt the following **new** 641—Chapter 78:

CHAPTER 78

PERSONAL RESPONSIBILITY EDUCATION PROGRAM AND TITLE V STATE SEXUAL RISK AVOIDANCE EDUCATION GRANT PROGRAM FUNDING AND RESTRICTIONS

641—78.1(88GA,HF766) Purpose. The purpose of this chapter is to set forth guidelines and limitations for the use of funds from the Personal Responsibility Education Program (PREP) and the Title V State Sexual Risk Avoidance Education Grant Program (SRAE).

641—78.2(88GA,HF766) Definitions.

“*Administer*” means to implement PREP or SRAE through contracts entered into by the department and selected private, governmental, and nonprofit organizations to provide programming directly to youth participants. “Administer” does not mean the evaluation of PREP or SRAE or the management of federal performance measures data collection for PREP or SRAE programming. “Administer” also does not mean providing training and technical assistance.

“*Affiliate*” means a business, corporate, or financial relationship in which an entity is controlled by or under common control with an entity that performs or promotes abortions.

“*Department*” means the Iowa department of public health.

“*Nonprofit health care delivery system*” means an Iowa nonprofit corporation that controls, directly or indirectly, a regional health care network consisting of hospital facilities and various ambulatory and clinic locations that provide a range of primary, secondary, and tertiary inpatient, outpatient, and physician services.

“*PREP*” means the Personal Responsibility Education Program as specified in 42 U.S.C. Section 713.

“*Regularly*” means recurring, routine, and conducted in conformity with established or prescribed rules or policy.

“*SRAE*” means the Sexual Risk Avoidance Education Grant Program authorized pursuant to Section 510 of Title V of the federal Social Security Act, 42 U.S.C. Section 710 as amended by Section 50502 of the federal Bipartisan Budget Act of 2018, Public Law 115-123, and as further amended by Division S, Title VII, Section 701 of the federal Consolidated Appropriations Act of 2018, Public Law 115-141.

641—78.3(88GA, HF766) Distribution of grant funds. Distribution of grant funds shall be made in a manner that continues access to PREP and SRAE programming.

78.3(1) Priority. The department shall distribute all grant funds received to eligible private, governmental, and nonprofit organizations or agencies that are able to deliver services to a county or counties as defined and prioritized by the department.

78.3(2) Funds restrictions—abortion.

a. Any contract entered into on or after July 1, 2019, by the department to administer PREP or SRAE shall exclude as an eligible applicant any applicant entity that performs abortions, promotes abortions, maintains or operates a facility where abortions are performed or promoted, contracts or subcontracts with an entity that performs or promotes abortions, becomes or continues to be an affiliate of any entity that performs or promotes abortions, or regularly makes referrals to an entity that provides or promotes abortions or maintains or operates a facility where abortions are performed.

b. This prohibition shall not be interpreted to include a nonpublic entity that is a distinct location of a nonprofit health care delivery system, if the distinct location provides programming through PREP or SRAE but does not perform abortions or maintain or operate a facility where abortions are performed.

c. For the purposes of these rules, “abortion” does not include any of the following:

(1) The treatment of a woman for a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death.

(2) The treatment of a woman for a spontaneous abortion, commonly known as a miscarriage, when not all of the products of human conception are expelled.

78.3(3) Distinct provider identification number and attestation.

a. Each distinct location of a nonprofit health care delivery system receiving funds from the department under these rules shall be assigned a unique identification number by the department.

b. Each distinct location of a nonprofit health care delivery system receiving funds from the department under these rules to administer PREP or SRAE shall provide to the department, on forms provided by the department, a signed attestation that abortions are not performed at the distinct location. The attestation will be completed annually during the application process.

These rules are intended to implement 2019 Iowa Acts, House File 766, section 99.